Legislative Assembly for the Australian Capital Territory

STANDING COMMITTEE ON PLANNING AND URBAN SERVICES

REPORT NO.72 JUNE 2001

DRAFT VARIATIONS TO THE TERRITORY PLAN: NO.158 COMMERCIAL B2C LAND USE POLICIES – PROPOSED CHANGES TO GROUP CENTRE POLICIES; AND NO.163 KIPPAX GROUP CENTRE – PROPOSED EXPANSION TO RETAIL CORE

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At the end of this report are maps of Kippax Group Centre, taken from DV158 and DV163 (respectively).PLEASE NOTE THE ELECTRONIC VERSION OF THIS REPORT DOES NOT CONTAIN THESE MAPS .CONTACT THE COMMITTEE OFFICE FOR A COPY.

Recommendations

(followed by the relevant page number)

The Standing Committee on Planning and Urban Services recommends that Draft Variations No.158 and 163 be amended in the following ways to make just one final Variation for all Group Centres (Kippax included).

Recommendation 1*—that DV158 be amended to provide detailed justification for each proposed expansion of Precinct 'a' land (the retail core). For example, the committee considers that there is insufficient evidence to justify the proposed retail expansion at Charnwood (especially in light of DV163). 30*

Standing Committee on Planning and Urban Services

The committee was established on 28/4/98 to inquiry into and report on planning and lease management, road and transport services, infrastructure and asset management and public utilities purchasing, electricity industry and regulation, construction industry policy, parks and forests, private sector employment inspectorate, building services, environment, heritage and municipal services and any other related matter (resolution of appointment, as amended on 25/11/99, 7/12/00 and 15/2/01)

Committee members

Mr Harold Hird MLA (Chair)

Mr Dave Rugendyke MLA (Deputy Chair)

Mr Simon Corbell MLA

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<u>Recommendation 2</u>—that DV158 be amended to stipulate that a thorough analysis of carparking demand in a particular Group Centre must be undertaken prior to any expansion of retail activity into the existing Precinct 'd' area (public carparking) of that Group Centre. 30

<u>Recommendation 3</u>—that DV158 be amended to fully outline the master planning process and in particular: 30

- *that it stipulate that PALM is to be responsible for Group Centre Master Plans (individual proponents should not be involved in the preparation of these Plans though of course PALM should consult the proponents) 30*

- *that it incorporate the assessment criteria and performance controls to be used by PALM in preparing and assessing Group Centre Master Plans 30*

- *that PALM identify the likely impact of a change to a Group Centre Master Plan on Local Centres in the area 30*

- *that PALM be required to demonstrate that it has taken into account the need for community facilities as much as the need for retail/residential or other uses 30*

- *that PALM be required to allow sufficient time for community comment on Centre Master Plans <u>and</u> that PALM be required to formally respond to the public comment it receives (as happens at present with draft variations to the Territory Plan). This formal response should be included in the papers forwarded by PALM to the Minister at the time PALM makes a recommendation on a Group Centre Master Plan 30*

- *that PALM ensure that its public consultation extends beyond the immediate Group Centre (eg a business centre such as the Belconnen Markets should be consulted about the Jamison Group Centre Master Plan). 30*

<u>Recommendation 4</u>—that DV158, once it is amended in line with these recommendations, then be resubmitted to this committee for its consideration. 30

<u>Recommendation 5</u>—that, in the event that a Group Centre Master Plan makes provision for high rise buildings (greater than two storeys or whatever is the existing height in a Group Centre, whichever is the greater), the Master Plan must be treated as a draft Variation to the Territory Plan and so come before an appropriate committee of the Legislative Assembly. 30

<u>Recommendation 6</u>—that DV158 stipulate that a balance must be maintained between residential and commercial land uses in the group Centres. In making this recommendation, the committee indicates that it supports a greater level of residential land use in the Group Centres but it is imperative that an appropriate balance is maintained. 30

<u>Recommendation 7</u>—that PALM inform members of the ACT Assembly, and the relevant planning committee of the Assembly, at the time it initiates and/or prepares a Group Centre Master Plan; and when it is considering changing a Group Centre Master Plan. 30

<u>Recommendation 8</u>—that land in the Kippax Group Centre be set aside for a permanent Kippax Community Centre comprising (and integrating) a new and permanent library, meeting rooms, a health centre, display areas, provision for Senior Citizens and for youth, and possibly an ACT Shopfront. The integrated centre should facilitate community access. Also, the integrated facility might usefully incorporate space to be used by local members, and by Ministers, when seeing constituents. 31

<u>Recommendation 9</u>—that the existing health facility on Block 22 should be incorporated into the new integrated Kippax Community Centre. 31

<u>Recommendation 10</u>—that the new Kippax Community Centre be located at a convenient location on one or more of Blocks 15, 16, 22 or 53. 31

<u>Recommendation 11</u>—that provision be made for a limited expansion of Precinct 'a' land at the Kippax Group Centre, which expansion must not be separated from the existing retail core. In this regard, the committee notes that, if the existing Health Facility on Block 22 is relocated, then this land may be able to used for an expanded retail core. 31

<u>Recommendation 12</u>—that planning for the Kippax Community Centre make appropriate provision to retain an area of urban open space (as currently exists on Block 53). 31

<u>Recommendation 13</u>—that Blocks 50, 51 and 52 retain their existing classification as Precinct 'b'. In relation to the existing lease requirement for a leisure centre on Block 51, the committee values this usage highly and believes it should continue. 31

<u>Recommendation 14</u>—that there should be no direct road access to Kippax Group Centre from Southern Cross Drive 31

<u>Recommendation 15</u>—that PALM improve its notification process for draft Variations by informing submitters about whether the draft Variation has been amended in light of comments by the public, and informing them when the draft Variation has been forwarded to the Minister. Also, the submitters should be told how to access or obtain the Consultation Report prepared by PALM which identifies the issues raised by the public. 32

I. DRAFT VARIATIONS 158 AND 163

1. DV158 (which was revised by PALM in light of public comment) deals with proposed changes to Group Centre policies in relation to Commercial B2C land use policies:

> The DV is the result of a comprehensive review of the Commercial 'C' Land Use Policies undertaken by PALM following the retail policy directions adopted by the ACT government in July 1999…
>
> A new format for identifying the purposes for which Commercial 'C' land may be used has been introduced. The revised format sets out in three separate schedules those uses which are permissible (Schedule 1); those which are permissible where in accordance with an approved Centre Master Plan (Schedule 2); and those that are prohibited (Schedule 3)…
>
> The proposed policy introduces the concept of Centre Master Plans. The Centre Master Plan process is an appropriate mechanism for considering a development proposal that has merit but is not listed in either the Schedule of 'Permissible Uses' nor the 'Prohibited Use' Schedule. A Centre Master Plan process can also be utilised where a development has the potential to significantly change the character of a Centre…
>
> The Commercial policy is further divided into [four] precincts. Precinct controls are a mechanism used to achieve a desired internal functioning for a centre; to conserve a character of a specific built area; or to achieve low rental commercial space. The precinct boundaries for most centres have been amended in some way…
>
> The proposed changes include provision for small scale retailing of a maximum 100m^2 per shop within Precinct 'b' (currently no retailing is permitted) and greater flexibility for the size of retailing in Precinct 'c'. The existing restriction that limits retailing to a maximum 300m^2 per shop is proposed to be continued for food retailing but removed for non-food retailing…
>
> PALM acknowledges that within Precinct 'b' residential use may be appropriate where such development does not undermine the potential to utilise the land for Commercial purposes… If the Performance Controls cannot be clearly met, a Centre Master Plan is an appropriate mechanism for resolving whether or not there is merit for a particular residential development to be located at ground floor level in a Precinct 'b' area…[1]

2. DV163 (which was not revised by PALM in light of public comment) deals with the proposed expansion of the retail core of Kippax Group Centre:

> The proposed changes… would extend Precinct 'a', the retail core, of the Kippax Group Centre to include Blocks 50, 51, 52 and 53 Section 51 Holt. The commercial land within the Kippax Group Centre in Holt is currently subject to the Commercial C – 'Other Group Centres' Land Use Policies set out at Part B2C of the Territory Plan Written Statement. Currently Blocks 50, 51, 52 and 53 Section 51 Holt form part of the Business Area Precinct (Precinct 'b')…
>
> While… [PALM was reviewing the 17 Group Centres in light of the government's retail policies] it became evident that there was particular interest in substantially expanding the retail opportunities at the Kippax Group Centre.

[1] Minute by PALM (attaching the DV) to Minister for Urban Services dated 28/9/00

Because of the planning issues unique to Kippax, PALM prepared a separate Variation for the Kippax Centre (DV163) and released it concurrently with DV158.[2]

[2] Minute by PALM (attaching the DV) to the Minister for Urban Services dated August 2000.

II. CONDUCT OF THE INQUIRY

3. On 6/9/00 the Minister for Urban Services (Mr Smyth MLA) referred Draft Variation to the Territory Plan No.163 to the committee for its consideration, in line with s25 of the *Land (Planning and Environment) Act 1991*. On 16/10/00 the Minister also referred Draft Variation No.158.

4. On 16/9/00 and 19/9/00 the committee placed advertisements in the local media inviting public comment on DV163 (to be received by 23/10/00). On 28/10/00 and 31/10/00 the committee placed advertisements inviting public comment on DV158, with a closing date of 1/12/00. On 9/12/00 and 12/12/00 the committee again placed advertisements in the local media stating that the committee would continue to accept submissions on both Variations up to 9/2/01.

5. The committee held four public hearings on DV 158. On 9/2/01 the committee heard from the following organisations/persons [listed in alphabetical order]:
— Canberra Small Business Council Inc. (Mr Xyrakis);
— Kippax Task Force (Mr Watson and Commander Wright);
— PALM; and
— Royal Australian Planning Institute (Mr Cohen).

6. On 16/2/01 the committee heard:
— ACT Chamber of Commerce and Industry (Mr Peters);
— ACT Master Builders Association (Mr Dawes); and
— Canberra Property Owners Association (Mr Tsirimokos).

7. On 9/3/01 the committee heard:
— Charnwood IGA Supermarket (Mr Demarco and Mr Wylucki);
— Liangis Investments P/L (Mr Purdon);
— West Belconnen LAPAC [(Ms Chignell and Alderman Henry);
— Woolworths (Mr Maxwell, Investment Manager, Property; Mr Rowston, Property Manager, NSW and ACT, Woolworths Supermarkets; and Mr Smith, Director, Smith Kostyrko Cohen Middleton P/L).

8. On 15/3/01 the committee heard:
— Argos P/L (Mr Petsas);
— Kippax Fair (Mr Adcock);
— Manuka LAPAC (Ms Forrest); and
— PALM.

9. The committee held four public hearings on DV163. On 17/11/00 the committee heard from the following organisations/persons (listed in alphabetical order):
— Kippax Task Force (Mr Watson and Commander Wright): and
— PALM.

10. On 24/11/00 the committee heard:
— Kippax Fair (Mr Flint and Mr Adcock);
— Kippax Leisure Centre (Mr Boland);
— Kippax Uniting Church (Reverend Ramsay and Mr Ridge);
— Liangis Investments P/L (Mr Purdon);
— Mr Notaras;
— Mr Rattigan;
— West Belconnen LAPAC (Ms Chignell and Mr Riley); and

— Woolworths (Mr Rowston and Mr Smith).

11. On 1/12/00 the committee heard PALM; and on 9/3/01 it was addressed by Mr Bennett on behalf of the Kippax Swim Club.

12. Other significant dates in the conduct of the inquiry include:

- on 1/12/00 the committee resolved to request a copy of all papers and records held by PALM in relation to DVs 158 and 163;
- on 8/12/00 the committee decided to report concurrently on DV158 and DV163;
- on 8/2/01 the committee inspected the Kippax Group Centre, accompanied by officers from PALM, the Library Service and ACT Community Care; and
- on 16/2/01 the committee decided to consider the Draft Jamison Centre Master Plan in the course of this inquiry.

III. PUBLIC COMMENT ON DV158

13. The committee received nine submissions on DV158. The committee also obtained, and took into account, all of the submissions on the original DV158 that were lodged with PALM. The following summary is of the submissions received by the committee during the inquiry. The committee does not claim that the summaries are exhaustive; they are meant to act as a guide to the main points arising out of the inquiry as the committee sees them. The summaries are in alphabetical order.

14. **ACT government [PALM]** stated that the purpose of DV158 is 'to ensure that retail planning focuses on making space available which encourages the provision of retail services that optimise consumer demand and convenience'.[3] DV158 is:

> a policy framework for long-term needs, probably for the next ten to 15 years… Retail space will continue to grow in Canberra… [and there are] limited opportunities in Group Centres. Unless we provide some flexibility they will tend to go into… town… centres or industrial areas.[4]

15. DV158 continues the existing separation of Group Centres into four precincts:

> Each of the Group Centres is broken into four precincts… Precinct 'a' is… the retail core [and] makes provision for shops and services… It is generally focussed on a supermarket which is generally seen as the main anchor of most of the group Centres…
>
> Precinct 'b', sometimes referred to as the business area…, makes provision for a range of other complementary uses: offices, business services, community entertainment facilities, things like clubs, etc. The idea is to try to maintain good linkages to the main retail core…[Some] small-scale retailing [will be permitted] within precinct 'b'… up to a maximum of 100m^2 gross floor area…
>
> Precinct 'c' is… the mixed services area… [which includes] car repairs, maintenance, lower order retailing and lower rent commercial space… [It is proposed to remove the current restriction of] 300m^2 gross floor area for any retail outlet or shop within precinct 'c'… except in relation to food retailing…
>
> Precinct 'd' is the carparking precinct, and that is really intended to ensure that there is sufficient carparking to ensure that these centres retain good accessibility for surrounding residents and consumers...
>
> Residential use is proposed to be permissible in all precincts other than ['d'] but within precincts 'a' and 'c'… we are proposing that they not be permissible at ground floor level, because we want to make sure that there continue to be accessible commercial uses at the ground floor level.[5]

16. PALM stated that:

> [Following its review of all Group Centres, PALM] decided that we wouldn't expand the retail core precinct in any of the centres into areas that were essentially vacant or [that were] vacant carparks.[6]

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[3] Transcript of the public hearing on 15/3/01 (Mr Calnan)
[4] Ibid (Ms Kece)
[5] Transcript of the public hearing on 9/2/01 (Mr Calnan)
[6] Transcript of the public hearing on 15/3/01 (Mr Calnan)

17. In relation to the 17 Group Centres, PALM considers that there is:

> no justification for maintaining the current restrictions that apply to Group Centres… [Their] land use policies and planning controls… [should] be broadened… [Therefore, PALM undertook] a comprehensive review of the Centres… [and decided] to introduce… the concept of Centre Master Plans as a mechanism to not only provide a finer level of detail but also to provide that additional level of flexibility…[7] whereby uses that may not necessarily be permissible under the Precinct polices may be permitted where they are in accordance with an approved centre master plan.[8]
>
> We are recognising that our over-riding principle is to put more reliance in the future on master plans…[9] These planning principles will guide the next step in more detailed lease and development conditions or other controls upon the release of land…[10]

18. In relation to who would prepare Master Plans, PALM stated that:

> Master plans can come either from the government or from the developer initiated response…[11] It will vary, depending on the circumstances. Where there is an identifiable proponent and there are not competing… interests, then we would expect the proponent to undertake the work required to prepare the documentation… [The formal] consultation process will be undertaken by PALM… [and] there will be a period for public comment [on the draft Plan]. PALM will then consider the comments, prepare a report to the Minister and make a recommendation… Once the Minister has approved it, it then becomes an approved Master Plan.[12]

19. In relation to the draft Jamison Group Centre Master Plan, PALM provided supplementary material listing the consultation process to date. It shows that the consultation process commenced in June 2000 when Ginninderra LAPAC was briefed about the preparation of a draft Master Plan. Further 'pre-consultation' occurred during June 2000. In July 2000 a consultant to PALM provided three options for a draft Master Plan and, in the same month, these were discussed with ''stakeholders'. In August 2000 the Ginninderra LAPAC was briefed on the three options. In September 2000 PALM selected Option 2 'for development into [a] draft Master Plan'. In October 2000 meetings were held with Jamison traders. In December 2000 PALM invited the public to comment on the Draft Master Plan. In January 2001 PALM sent a 'letter and Executive Summary… to lessees/residents immediately adjoining the centre inviting comments on the draft Master Plan'. In February 2001 PALM gave a presentation to the Belconnen Community Council and in March 2001 PALM conducted a public hearing at the Western Districts Rugby Union Club 'to discuss the draft Master Plan and provide opportunity for further comment'.[13]

20. **ACT & Region Chamber of Commerce & Industry** expressed its support for:

> proposals to vary the Territory Plan that will result in a more flexible approach to land use policy, that will support existing and new business activity in Group Centres… The Chamber also supports planning principles for Group Centres that

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[7] Transcript of the public hearing on 15/3/01 (Mr Calnan)
[8] Transcript of the public hearing on 17/11/00 (Mr Calnan)
[9] Ibid (Mr Hawkins)
[10] Transcript of the public hearing on 1/12/00 (Mr Hawkins)
[11] Transcript of the public hearing on 17/11/00 (Mr Hawkins)
[12] Transcript of the public hearing on 9/2/01 (Mr Calnan
[13] Supplementary material tabled by PALM at the public hearing on 15/3/01

> deliver a good balance between more retail space and community space/facilities.[14]

21. **Argos P/L** 'strongly opposes… [DV158] in its current form'. It considers that DV158:

> favours… [some] Group Centres… [over] others, such as [the different treatment of] Curtin, Jamison and Mawson… Core retail areas defined in precinct 'a' … have been extended in centres such as Kippax, Jamison and Curtin to allow for further development, but have remained unchanged in certain centres such as Mawson…. There should be some consistency…
>
> Also, it] is unclear to us who would prepare the Master Plan and what form it would take… [and] what sort of processes you would need to take. And finally, under the Master Plan process the proposed development's fate would be in the hands of the Minister of the day, so I guess that opens up questions [about] the harder you can lobby the Minister… the easier it is for your proposal to pass…[15]

22. Argos P/L considers that Canberra does not 'have a population to sustain two major supermarkets with Group Centres'.[16]

23. **Canberra Property Owners Association** considers that 'the owners of property [in] the [Group] Centres… ought to be able to initiate a master plan… and if there is a conflict between those persons, preference or first opportunity ought to be given to the owner of the 'a' zone property within the Centre'.[17]

24. **Canberra Small Business Council Inc.** objected to DV158 on the grounds that its provisions, including the master planning process:

> would change the whole emphasis of a Group Centre… [away from small property owners and towards centres] controlled [in the] long term… by two major supermarkets… [This would lead to] a small supermarket in a Local Centre [closing] down [and then] the rest of that shopping centre is just about doomed. The shops might hang in there for another year to so, but those shops really do go…
>
> If open slather… at the Group Centres is allowed — eg… two or three supermarkets — this will only benefit… the [larger[property owners to some extent, but it will not benefit other property owners and it will not benefit the public [in the long term]. Short term, yes, it would benefit the public as there would be a price war… But… the major supermarkets these days — Woolworths, Coles, Franklins — do control 80% of the supermarket business in Australia and I would think [it is] also close to that in the ACT… Where there are only Woolworths and a Coles in an area, over time they will quite easily lift the prices of their groceries and there will be no real competition there. It has happened in other areas…
>
> Long term, Local Centres would be greatly affected. For instance, in the Belconnen area, whether you are talking about Kippax or you are talking about Charnwood, there are already a few shopping centres [shops] that have closed down. But other centres, like Higgins, Holt and Macgregor… would suffer quite dramatically…

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[14] Submission dated 1/2/01
[15] Transcript of the public hearing on 15/3/01 (Mr Petsas)
[16] Ibid
[17] Transcript of the public hearing on 16/2/01 (Mr Tsirimokos)

> DV158 definitely helps large businesses and the major owners of the Group Centres who own at leat half of all the Group Centres. But there are other Centres — eg Hawker, Kingston, Dickson… — that are owned by a large variety of people.[18]

25. In relation to master plans, the Canberra Small Business Council asked:

> Who would best look at it if there were two proposals put in for a master plan for a Group Centre?… Who would be there to determine which one would be the best one and how do we go about assessing which one would be the best one if there were two major players in a particular Group Centre who wanted to change the overall view of it?[19]

26. In relation to carparking, the Small Business Council stated:

> Carparking is always a major problem, especially if a building is allowed to be erected in a particular area. Where a car park normally services a large shopping centre, a developer should not be allowed to come in there… and take up that public car park, which really belonged to all those shopkeepers in that Centre. It is well and good to say that the developer has to provide 300 car spaces or whatever the case may be — an example is Manuka — but if he provides it under his own building and people come up and are in his building, the car park really does not belong to that major shopping centre.[20]

27. **Charnwood IGA supermarket** objected to the proposed increase in the size of precinct 'a' in the Charnwood Group Centre[21], submitting that:

> DV158 would allow… a second supermarket to come in basically at the doorstop of the existing operation… where the high probability is more than likely [that] both will falter over the longer term, because the retail trade is not there to support both of them… [There] is no need of having a variation which gives us additional floor space if it really is going to undermine the centre that is there.[22]
>
> [A] second supermarket at Kippax will draw trade from Charnwood. The second supermarket at Kippax is an industry expectation. Charnwood is currently 25% below the rule of thumb sales rate for Group Centre supermarkets. [There is] insufficient sales activity for two medium sized supermarkets to survive in Charnwood [and] any deterioration in the sales activity in the Charnwood Group Centre will have dramatic effects on all the support retail.
>
> [Further,] over the last ten years… the bulk of the sales [at Charnwood] have been lost to Woolworths at Kippax…
>
> [Charnwood IGA supermarket is] not opposed to sensible competition but any future releases of land for retail purposes should be controlled by sound planning principles… [including consideration of the effect upon] the viability of the other small businesses in the Group Centre should the anchor business fail… [It is essential] to look at what is the breaking point for a Group Centre supermarket… Sales rate analysis clearly indicates Charnwood does not need a second supermarket.[23]

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[18] Transcript of the public hearing on 9/2/01 (Mr Xyrakis)
[19] Ibid
[20] Ibid
[21] Transcript of the public hearing on 9/3/01 (Mr Wylucki)
[22] Ibid
[23] Supplementary material tabled by Mr De Marco and Mr Wylucki at the public hearing on 9/3/01

28. **Efkar P/L and Pontians P/L** expressed concern about the Jamison Master Plan stating that:

> They were not consulted on the proposal, and yet the significant amount of new development apparently being proposed at Jamison not only has the potential to affect the viability of the total market operation, but also the viability and livelihood of the many small businesses currently operating at the [Belconnen] Market.
>
> DV158 (at Part 3.6) requires that Centre Master Plans must identify "the impacts (including social and economic impacts) of those uses on… nearby commercial centres". We have no evidence that PALM has done the Impact Assessment as required by its own (interim) policy.
>
> The Master Plan contains no information on the type and amount of development being proposed. The draft Master Plan drawing would indicate a substantial amount of new development. Our client cannot undertake any meaningful assessment of impact on his own businesses without this vital information. PALM concedes that it has this information, but decided not to attach it to the draft Master Plan for comment.[24]

29. **Kippax Fair** expressed concern about DV158 on numerous grounds. The 'most controversial element' of DV158 was stated to be the centre master planning proposal which:

> allows [the] Minister to approve a proposal that is in breach of the Territory Plan; removes the need for the Minister to formulate a DV and refer the Variation to the this committee; removes the power of the Legislative Assembly to veto the Minister's decision to vary the Territory Plan; [and] it allows the Minister the right to defacto change the Territory Plan without any power of review vesting in any other court, tribunal or body…
>
> [Further, the proposal for Group Centre Master Plans] should have been the subject of an inquiry, discussion papers, seminars and extensive consultation with the community… [It can be asked] why the master planning proposal has been restricted to Group Centres. If this variation were passed, [it would] only be a matter of time before its wider application is sought…
>
> It may be that an amendment to the Land Act is necessary before the Centre Master Plan proposal could be even possible…
>
> [The] rights of [the] Minister are paramount under this proposal… To achieve planning balance [it] is essential that elected representatives or an expert tribunal be in a position to review the actions of PALM and its Minister. [It is] not sufficient for PALM to give [a] verbal undertaking that it would discuss proposals with the committee if requested…
>
> If the Centre Master Plan proposal as contained in DV158 had been in effect last year, the Kippax Corner proposal would probably have been approved by now…
>
> The Centre Master Plan proposal… has fundamental problems associated with it and could often result in poor planning decisions.[25]

30. Kippax Fair also submitted that 'changes to precinct boundaries for individual Group Centres should have been dealt with separately after [DV]158 had been decided'. This would

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[24] Correspondence dated 28/2/01 from Mr Smith (director, Smith Kostyrko Cohen Middleton P/L) for Efkar P/l and Pontians P/l (owners of Belconnen Markets)

[25] Submission tabled by Mr Adcock on 15/3/01

have ensured appropriate recognition of 'changes of substance' to the precinct boundaries in the Group Centres:

> Concerns and confusion have been created by PALM adopting an inconsistent approach in dealing with individual Group Centres.[26]

31. This point particularly applies to Kippax Group Centre:

> Kippax Fair has been left with a distinct impression that an attempt has been made to slip the DV163 through before major issues for Croup Centres were canvassed.[27]

32. Kippax Fair considered that the 'demand for new retail space at Group Centres [has been] highly overstated':

> The only examples of interest in providing a second major supermarket have arisen where the existing single supermarket is achieving good returns. Such is the case at Kippax and such was the case at Manuka… The Manuka experience has severely reduced the chance of such an experiment being undertaken at another Group Centre…
>
> PALM is identifying far too much additional retail space, and is not carefully considering the specific needs of particular regions.[28]
>
> [PALM] is clearly very reliant on [the] BIS Shrapnel report… [which is] some two or three years old [and] which advocated that there was not an oversupply of retail in Canberra and there was a need to relax the hierarchy rules and change the planning system particularly with respect to Group Centres… [There is] a rationale underlying [PALM's strategy] that if we free up planning policy, those stack of investments [in new development] are going to drop in our laps. We find no support… for such an assumption… [We] believe that the assertions for additional retail space at Group Centres have been significantly over-stated… [including] the demand in West Belconnen…. [However,] Kippax itself [needs] another supermarket… [with] a sensible outcome being the location of an Aldi supermarket at around the 1,500m^2 mark… on the vacant land next to Kippax Fair [and] joined to Kippax Fair… [This would complement a possible expansion of the existing Woolworths supermarket at Kippax by about] 2,000m^2. [29]

33. **Kippax Task Force** considers that PALM 'should be initiating Master Plans, and with very good consultation'.[30]

34. **Liangis Investments P/L,** which has interests in four Group Centres, 'broadly supports the changes that have been proposed across Canberra [in DV158] because they create more flexibility and scope for Group Centres to compete in an open market environment'.[31] Liangis Investments considers that:

> it would have been a simpler exercise… not to have different precincts within the Group Centre but just to have… one zoning for the Group Centre… It [remains] a fairly convoluted process for changing those boundaries once they're fixed.[32]

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[26] Ibid
[27] Ibid
[28] Ibid
[29] Transcript of the public hearing on 15/3/01 (Mr Adcock)
[30] Transcript of the public hearing on 9/2/01 (Mr Watson)
[31] Transcript of the public hearing on 9/3/01 (Mr Purdon)
[32] Ibid (Mr Purdon)

35. In relation to development proposals for Kippax Group Centre, Liangis Investments P/L submitted that adoption of DV158 would require:

> the applicant to undertake a master plan for the site with no certainty of outcome other than a costly and time-consuming master planning process. We consider that this would be an unacceptable outcome for Kippax and the Territory ratepayers. It would also discriminate against [a] lessee wanting to initiate sound development proposals accompanied by good documentation and project justification.[33]
>
> The description of the master planning process is still unclear… as to how that would be initiated, who should initiate it, who should fund it, how long will it take, and how will it resolve the issues that have already been on the table [re DV163]?[34]

36. **Manuka LAPAC** expressed concern about the impact of DV158 on the Manuka Group Centre especially in relation to preserving the residential element of the Blandfordia 5 area and the educational component of the St Christopher's School precinct.[35]

37. **Master Builders Association of the ACT** [MBA] 'broadly supports' DV158. The MBA stated:

> What Canberra needs is a planning framework that permits new development in agreed areas such as Group Centres without excessive delays or other frustrations… The committee [should] consider ways of reducing the approval timetable for soundly based and properly documented projects.[36]

38. **Royal Australian Planning Institute** expressed concern about the possibility that the preparation of Master Plans may take a long time and hence deter investment. Further, 'there is a concern about the nature of Centre Master Plans in that they are a document approved by the Minister with no right of objection or appeal…'.[37] The Institute would be concerned if the preparation of a Master Plan was simply seen by a developer as an extension of the development application process. The Institute considers that PALM should be 'proactive' in the preparation of Master Plans.[38]

39. **Sayers Property Group** supported DV158 because it:

> proposes improvements to the sterile way commercial precincts have been treated previously within the Territory Plan…
>
> We support the DV because it aims to better service the contemporary needs of the broader communities. Canberra has long been criticised for its sterility – and while we do not agree with this analysis, the more cosmopolitan developments envisaged by DV158 will improve the quality of facilities and lifestyle of the community, and breathe new life and patronage into struggling urban shopping centres… Sensitive redevelopment on under-utilised and derelict properties will enhance the quality of life of our older residents, reduce urban sprawl and help save some of our small businesses.[39]

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[33] Submission dated 7/2/01
[34] Transcript of the public hearing on 9/3/01 (Mr Purdon)
[35] Transcript of the public hearing on 15/3/01 (Ms Forrest)
[36] Submission dated 2/2/01
[37] Transcript of the public hearing on 9/2/01 (Mr Cohen)
[38] Ibid
[39] Submission dated 4/4/01

40. **West Belconnen LAPAC** submitted that DV158 and DV163:

> must be considered jointly. Considering them in isolation does not give a clear indication of the combined impact on the community and commercial infrastructure of West Belconnen.[40]
>
> [The LAPAC holds] grave concerns regarding the impact of DV158 on Local Centres. Is not a large concentration of retail space in Group Centres a serious threat to the viability of local shops and the suburban communities?…
>
> That Canberra has more than adequate retail space to serve the population is often argued but does the considerably slow population growth of Canberra warrant substantial land use changes to accommodate increased concentrations of retail space in the Group Centres?… Would not the proposals in DV158 inhibit commercial investment and development in Canberra's older suburbs?… Greater expansion of the Group Centres is unlikely to ensure survival of the Local Centres (including the corner shop)…
>
> At best, the DV158 proposal seems premature; at worst, a retrograde step in prospering and preserving the character of Canberra's suburbs.[41]

41. **Dr Willis** expressed concern about the Jamison Group Centre Draft Master Plan. He stated that:

> public consultation has been minimal. The Draft for comment was released immediately prior to Christmas with an original cut-off date of January 29 (since extended to February 16…). The fact that eleven, nine and seven storey buildings are proposed is not stated anywhere in the text of the Draft…
>
> Surely [a decision to permit multi-level buildings] should be debated and decided by our elected officials…
>
> [Further,] the road variations touted in the Draft appear largely to be made to accommodate the high-rise buildings… The effect of the proposed development upon the immediately-adjacent neighbourhood has been largely under-estimated or totally disregarded… The [proposed] tower… would remove all privacy from the back gardens of nearby homes; would cast a huge shadow across adjacent homes during winter; [and] would be totally out of keeping with the local landscape.[42]

42. **Woolworths** stated its support 'in principle' for the 'stated aims' of DV158[43] but noted that:

> Whilst the DPV [Draft Plan Variation] states that all Group Centres be subject to the same objectives and land use controls, the detailed treatment of precinct boundaries, and therefore land use and development opportunities, differs from centre to centre. For instance in some centres, the precinct 'a' area has been substantially increased, whilst in others there is very little or no change to precinct boundaries.
>
> This in turn will lead to significantly different processes for dealing with development proposals… It is Woolworths' view that the Plan Variation proposals and nominated processes should be framed in a consistent and similar

[40] Submission dated 6/3/01, Attachment
[41] Submission dated 6/3/01
[42] Correspondence to Mr Rugendyke MLA dated 4/2/01 and its attachment. This correspondence was accepted by the committee as supplementary material.
[43] Transcript of the public hearing on 9/3/01 (Mr Maxwell)

> way across all group centres…[44] [For example, Woolworths has] a supermarket… at Mawson… [which it would] like to expand into [precinct] 'd'… [Under DV158] we need to go and do the Master Plan, or someone has to do the Master Plan… [But if Coles in Curtin wishes to expand,] that will just be a development application… [since precinct 'a' in Curtin has been increased in DV158]… [It] should be a level playing field.[45]

43. While stating that 'the concept of a Master Plan process has merit', Woolworths submitted:

> DV158 contains no assessment criteria, standards or performance controls. Without an assessment framework in place, the system will be susceptible to subjective opinions and political interference.[46]
>
> [In the ACT] there is a natural conflict of interest… because the ACT government [is] the landowner as well as the consent authority. And in most of the Group Centres the surplus land within the Centre is actually owned by the government… [This] creates a major conflict of interest… [and makes] the ACT planning process… far more politically tainted than anywhere else in Australia…
>
> [Therefore it is very important that the DV] clearly set out its stated aims and objectives. It has to have policy, procedure and benchmark levels that need to be adopted and enforced by the consent authority to ensure that all planning, land management… [and other] issues are properly considered…
>
> Our view is that it's really the consent authority [that] should be the driver of the Master Plan by taking into consideration all the stakeholders' interests…[47]
>
> The question of who prepares a centre Master Plan appears to be left open. As the process is triggered by a development proposal, it can be assumed that the proponent may have the responsibility. There is no doubt however that in this situation the Master Plan would be designed in a manner that supports the particular proposal. In the same way that master plans have been prepared for residential sections in North Canberra, it may be preferable to have PALM prepare a centre Master Plan…
>
> Master Plans, although subject to public consultation, are finally referred to the Minister for approval. We assume there will no right of first or third party appeal against the Minister's decision, nor will there be an opportunity for concerned members of the public to meet with the Minister. This compares to the current system where Plan Variations are referred to the [Planning and Urban Services] committee, who would normally invite written submissions **and** hold public hearings…. It is… possible to apply this [parliamentary] committee system to the Master Plan process, albeit in a streamlined manner (compared to the necessarily lengthier DPV process). This would ensure transparency and help protect the present, and future, Minsters from accusations of political bias and interference.[48]

44. Woolworths considers that each of the 17 Group Centres should be treated in isolation.[49]

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[44] Submission dated 1/12/00 p.1
[45] Transcript of the public hearing on 9/3/01 (Mr Maxwell)
[46] Submission dated 1/12/00 p.2
[47] Transcript of public hearing on 9/3/01 (Mr Maxwell)
[48] Submission dated 1/12/00 p.2 [emphasis in original]
[49] Transcript of public hearing on 9/3/01 (Mr Maxwell)

45. Woolworths also submitted that:

> Existing Group Centre lessees should be given first priority to submit development proposals. This would for instance allow existing operators such as the independent supermarket operators along with Coles and Woolworths, or the local retail centre owners or strata owners, to put forward expansion proposals prior to any decision to release land for new retail development… The advantage of such a system is that it will ensure any retail and economic modelling undertaken by PALM is done with the full knowledge of the legitimate expansion plans for existing lessees and operators… Without such a system there is a risk that a combination of simultaneous new development **and** expansion will result in significant and serious impact on other centres.[50]

46. Woolworths submitted supplementary material expressing concern about the current process whereby PALM informs the public that a drat Variation has been changed in light of public comment:

> One acknowledgment letter [from PALM to each person who lodged a submission to PALM] stating that the [DV] may be changed is… not adequate, nor is a reliance on the *Canberra Times* and the Internet. Could I therefore suggest that in the case of future DVs that PALM write to all respondents at the time the matter is referred to the Minister/Urban Services committee, advising them that the Variation document has been changed, or left unchanged. Preferably the referred DPV document and the Consultation Report should be sent out with the letter, but if you are concerned about the administrative workload you could alternatively advise how the document can be obtained, eg shopfront, web etc.[51]

[50] Submission dated 1/12/00 p.3
[51] Correspondence dated 14/3/01 from Mr Smith [Smith Kostyrko Cohen Middleton P/L]

IV. PUBLIC COMMENT ON DV163

47. The committee received 14 submissions on DV163. The committee also obtained, and took into account, all of the submissions on the original DV163 that were lodged with PALM. The following summary is of the submissions received by the committee during the inquiry. The committee does not claim that the summaries are exhaustive; they are meant to act as a guide to the main points arising out the inquiry as the committee sees them. The summaries are in alphabetical order.

48. **ACT government** submitted that:

> the decision to proceed with a separate DV for Kippax (DV163) was to ensure that the proposal for Kippax could be dealt with in a transparent manner and in a way that would not complicate or jeopardise the general review of Group Centres (DV158)… In addition, the decision to proceed with a separate DV for Kippax recognised that the adoption of the Centre Master Plan initiative proposed by DV158 could not be assured… DV163 does not predetermine a particular outcome. It enables a range of proposals to be considered, the underlying rationale being that it would enable the unleased Territory land to be made available through an open and competitive process and the adjoining lessees or a third party to bid for the land on an equal footing.[52]

49. PALM stated that, though DV158 and DV163 proposed different landuses for the Kippax Group Centre, both had interim effect and, in the event that a development application was lodged for the site, it would be assessed as follows:

> Our position is that any application that is lodged which is consistent with all three policy documents [namely, DV158, DV163 and the existing landuse in the current Territory Plan] could be processed and determined, but applications that are lodged that are inconsistent with any one of those three documents could not be determined.[53]

50. PALM told the committee that it issued a DV for Kippax Group Centre as well as a DV for the 17 Group Centres (of which Kippax is one) because:

> During the formulation of [DV158] it became clear that there was specific interest in the Kippax centre. A proposal was put to PALM in relation to Blocks 50 and 51… [which] we believe… was consistent with the general principles [for a more flexible planning regime for Group Centres]. But we recognised that it raised a number of issues … [and] rather than try to deal with these issues as part of the general review of the Group Centres policy, we took the view that it was likely the debate and discussion around Kippax in particular was likely to cloud and confuse the discussion about the general Group Centres policies. So… we [initiated] DV163… because of the particular interest in Kippax….[54]
>
> We recognised a couple of years ago that there were a range of competitive commercial interests as well as long-standing community concerns about some of the nature of [the Kippax Group] Centre and how it functioned; that there were sub-optimal outcomes in the nature of the use of the health facility, the location of the library, the connection of the centre; and that there was, through some of the nature of development proposals which were occurring, the opportunity to achieve better planning outcomes for the community…

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[52] Correspondence dated 8/1/01 (Minister Smyth MLA)
[53] Transcript of the public hearing on 1/12/00 (Mr Calnan)
[54] Transcript of the public hearing on 17/11/00 (Mr Calnan)

> The reasons for supporting this proposal were manifold. Principally, however… they were not developer driven… There was a government response to the BIS-Shrapnel retail study… which suggested there be a more flexible framework for Group Centres to enable a range of development responses… It was appropriate within that context for a less rigid planning regime… That was the reason for advancing the DV [ie DV163].[55]
>
> The original proposal that was put to us by the Liangis group involved not only the use of its site… but also use of the adjoining… vacant Territory land between the fitness centre and Kippax Fair… [We] advised the Liangis group that before we would consider a variation to the Territory Plan… [they should] consult with the local community [which] they did. In response to that, a counter-proposal was put forward by the Kippax Fair group…
>
> [Though] we could have said… just wait until DV158 is resolved one way or the other… the interest was such that [we issued a separate DV]…
>
> [In relation to the vacant land at Blocks 15 and 16 which] are currently unleased Territory land[56]…[PALM's view] was that if [it] was to be made available, it would be made available through an open and competitive process…[57]

51. In relation to the need for additional retail space, PALM stated:

> As part of the consultation on DV163, there seems to be fairly wide community support for the concept or the possibility of an additional supermarket in Kippax. PALM has undertaken some retail analysis of the West Belconnen area to determine whether the market could support additional supermarket floor space, and that analysis indicates that, yes, certainly there is capacity to absorb additional supermarket floor space in that region...[58] PALM… engaged Ibecon to advise [if] additional supermarket space in West Belconnen was warranted and the answer was that it was warranted.[59]… The scale of supermarket, we've seen talked about was in the order of 3,500m^2…[60]
>
> In 1999 there was a total retail expenditure… of \$677m in the Belconnen District. The total spending is forecast to increase to \$762m by 2009… In 1999, 71% of the total Belconnen district retail trade was in the town centre. The rest, 20%, was shared between five group centres and some 22 local centres…
>
> The evidence of the demand for further retail space in West Belconnen is also evident by the interest of a major supermarket chain. This demand is a product of expected population growth in west Belconnen, the consequent retail expenditure growth and the potential of a new supermarket to attract expenditure away from other centres, particularly the Belconnen Town Centre by improving accessibility to major supermarkets.
>
> According to the ACT Retail Model findings for the Kippax Group Centre Assessment, there is an under-supply of about 4,200m^2 of supermarket net sales floor space… in the Belconnen District in 2000 (if it is assumed that all available expenditure for such purposes was to be spent in Belconnen outlets) and about minus 4,500m^2 net sales area… in the West Belconnen area (1,542m^2 in Kippax Region and 3,060m^2 in Charnwood Region)… Given this current level of under-supply and projected increase in the total retail expenditure in the district together

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[55] Transcript of the public hearing on 17/11/00 (Mr Hawkins)
[56] Ibid (Mr Calnan)
[57] Transcript of the public hearing on 15/3/01 (Mr Calnan)
[58] Transcript of the public hearing on 17/11/00 (Mr Calnan)
[59] Transcript of the public hearing on 15/3/01 (Mr Calnan)
[60] Ibid

> with the actual time of erecting a new supermarket (minimum two years – by the time the policies [are] revised and the master plans prepared, approved etc and construction competed) it is considered that there is a market demand for an additional supermarket in the area.[61]

52. In relation to submissions received by PALM:

> we can say there was clear support for a second supermarket but the comments were very divided about the location… Another major issue was the size of the retail core… [A further issue was] what might be lost or what might be gained in community facilities… There was certainly strong community support for a library… There is support for a revitalised pool and fitness centre. The community does not want to lose that facility. There was some support for housing on Block 50…[62]

53. In relation to the existing health facility, PALM stated:

> [There is] potential to provide new frontage for the health centre. At the moment the entry is at the back-end of this service area, which a lot of people are concerned about…[63]

54. **ACT & Region Chamber of Commerce & Industry** expressed its support for DV163:

> In our view the Liangis proposal presents a number of clear benefits to Kippax including a balanced retail structure; increased retail competition; a stronger retail centre with greater pulling power; new investment and job creation; [and] scope for improved library space, a new entrance to the health centre and new landscaped public open space…
>
> [It is] consistent with the 1998 Master Plan for Kippax, and presented a balanced outcome for the Centre that does not concentrate the majority of all retail space in single ownership…
>
> The Chamber is concerned that it takes the planning system as long as it does to consider and support new well-documented business proposals such as the Liangis project. This project was based on land leased by the company and did not involve plans to acquire vacant public land. Delays in the approval process are costly and act as a deterrent to future investment and business confidence…
>
> Kippax is a logical choice for an expanded retail presence to service West Belconnen and should be supported in advance of Charnwood as the former is better located, has a stronger existing infrastructure base, and better capacity to expand.
>
> There appears to be strong community support registered for the Kippax Fair proposal. However, we understand that this support reflected the need for a second supermarket, and such an outcome could be achieved on the Liangis site. The same strong community support was expressed for a better library and upgraded fitness centre, as well as retention of the now vacant government land (Blocks 15, 16 and 53) for a community use space. These facilities could not be achieved if Kippax Fair expanded into the vacant land included in PALM's DV163…

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[61] Attachment to correspondence from Minister Smyth dated 8/1/01
[62] Transcript of the public hearing on 17/11/00 (Ms Graham)
[63] Ibid (Mr Wood-Bradley)

> As a minimum position, the Chamber would strongly support a Plan Variation to permit retail activity on Blocks 50 and 51 Section 50 Holt. In our view, extension of the retail core to include Block 53 is not warranted as it would result in the sale and development of land that would inhibit support for the existing community facilities at Kippax.[64]

55. **Mr Adams** [and four other signatories] submitted that:

> Legislation be enacted to preserve Blocks 15, 16, 52 and 53 for public use… [as they] are centrally located and the only remaining vacant site for an integrated Kippax Community Centre with indoor and outdoor facilities and surrounding landscape and provide a community focus for the West Belconnen area…
>
> [The] development of an integrated proposal [should] be put in hand to include… [the following facilities] in a Kippax Community Centre—new library; large community meeting room; smaller committee meetings rooms, display area for art and craft etc; senior citizens activity area; [and a] ACT government shopfront…
>
> [Further,] the proprietors of Blocks 23, 50 and 51 [should] be invited to make proposals for the integration of their properties into the design of the community centre… [and] the proprietors of Kippax Fair could have the opportunity to provide an entrance at the northern end to the existing building…
>
> The reason that Kippax Fair wishes to expand appears to be Woolworths Supermarket requirement for more space and the acquisition of Blocks 15 and 16 probably gives them the cheapest option. However, they also have other options and it is not the government's role to provide a benefit to a commercial interest to the detriment of the community.[65]

56. Mr Adams stated that he believed 'there is an obligation on the operator [of the Fitness Centre] and the government to ensure' that there is no loss of these community facilities.[66]

57. **Mr Johnson** supports a second supermarket at Kippax Group Centre because:

> Kippax is the main centre in the western suburbs of Belconnen. It is a focus for bus routes and has a wide rang of services. [It also is] distant from the Belconnen Town Centre and as such provides an alternative centre for retail and other services…
>
> [A second supermarket would provide] competition for the existing Woolworths supermarket… [and would] attract more people to the centre…
>
> But competition between two developers poses problems for a successful outcome…
>
> The proposal of the Kippax Fair management is the better for two very important reasons. [One,] to gain the benefits of competition and service it is essential that the two retail outlets are in an integrated set of buildings… [Second,] the Kippax Fair proposal provides for a compete redevelopment of the library. The alternative proposal to locate the supermarket at the Fitness Centre proposes only an addition to the existing library building. Because the Kippax Centre development involves the library site, it has to incorporate a new library building in the extension of the Centre.

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[64] Submission dated 1/2/01
[65] Ibid
[66] Transcript of the public hearing on 17/11/00

> Locating the supermarket at the Fitness Centre suffers from several major problems. [One,] it is too far from the existing shopping facilities at Kippax Fair. The supermarket will largely function as a stand alone shop, not one integrated into the shopping complex… [Second,] it fails to support other facilities at Kippax, and particularly the library… The whole problem [of] the Fitness Centre proposal is [that it is] designed to support the redevelopment of that Centre… But it puts the cart before the horse. The shopping centre is of fundamental importance and should come first in the organisation of the Kippax area.[67]

58. **Kippax Fair** opposed DV163, stating that it is 'faulty in [its] assessment of additional retail core expansion required in West Belconnen':

> With respect to the West Belconnen region, PALM has identified an extra 17,000m^2 of new retail site area at Kippax in DV163 and has also scheduled the sale of a 2,181 new retail site at Charnwood. This adds up to potential new supermarket space far in excess of what Ibecon recommended and what is required for the West Belconnen region…
>
> Ibecon… [recommended] the location of a new 4,500m^2 supermarket at Kippax. It also suggested that it be built on vacant land next to Kippax Fair.[68]
>
> PALM has… substantially overestimated the underlying demand for retail expansion at Kippax. This has led it to nominate a huge increase (approximately 200%) in the retail core, which is far beyond both present and future demand for expansion…
>
> There is no demand for increased small-scale retailing at Kippax. A considerable vacancy rate already exists at the Centre for this category of retailing and many small businesses are struggling.[69]

59. Kippax Fair considers that:

> only the land adjacent to Kippax Fair Shopping Centre (Blocks 52 and 53) [should] be upgraded to retail core (Precinct 'a') with a view to the public sale of a development package consisting of Blocks 15 [and] 16 [already classified as Precinct 'a'], 52 and 53. We further submit that Blocks 50 and 51 (Kippax Pool and Fitness Centre and associated residential sites) are not suitable sites for retail expansion and… should be withdrawn from the DV.[70]

60. **Kippax Pool and Fitness Centre** supported DV163, stating that:

> For the fitness facility to be upgraded requires the go-ahead for a supermarket on the site. The future of Kippax Pool and Fitness Centre relies totally on a new, larger supermarket funding the project. Without the new supermarket, Kippax Pool and Fitness Centre is dead in the water. With the project going ahead, we envisage some eight new positions being created… [on top of the] 47 permanent and casual positions [already existing].[71]

61. **Kippax Swim Club** supported DV163:

> Should the planning view be that a second supermarket… is to be developed, it is vital that it occur with the redevelopment of the existing and aging Pool and

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[67] Submission dated 23/10/00
[68] Submission tabled by Mr Adcock at the public hearing on 15/3/01
[69] Submission dated 19/10/00
[70] Ibid
[71] Transcript of the public hearing on 24/11/00 (Mr Boland)

> Fitness Centre… The proposed supermarket [is] necessary to make the Fitness Centre redevelopment financially viable…
>
> There is so much emphasis today on health and well-being and activities such as Pool and Fitness Centres, Swim Clubs and the like are important cogs in the overall health of the community. The facility, the swim club and Learn to Swim programs are part of the community fabric and infrastructure and have been more than adequately serving the West Belconnen community for over 20 years.[72]

62. **Kippax Task Force** opposed DV163, stating that expanding the retail core at Kippax Group Centre to include a second supermarket would be:

> [an] absolute disaster. You have only got to look at Section 41 Manuka. If you wanted to do that, then you would probably ruin a lot of the people who now have leases in Kippax Fair… Everybody is struggling in Kippax…
>
> We do not want another supermarket that strings out like a giraffe's long neck at Kippax. Also, we always saw the northern end, Blocks 50 and 51, as the site for the recreation centre… for generations to come.[73] [And] allowing Block 52… to be rezoned to retail would effectively put an end to the library.[74]

63. The Kippax Task Force expressed concern about the serious effect on Local Centres of any increase in retail facilities at Kippax.[75]

64. In relation to Group Centre Master Plans, the Kippax Task Force representatives stated that:

> it is of concern that the Minister can approve these plans that are developer-driven. PALM are our public servants. They are the ones that should be initiating Master Plans, and with very good consultation…
>
> Block 50, which is earmarked for townhouses, has lots of mature trees on it and those mature trees border recreational paths and public land. It is important that in any design most of these trees be kept standing...[76]
>
> A 'retail' classification for Blocks 50 and 51 will… sooner or later, result in the loss of this land for swimming, other indoor recreation activities and the associated outdoor lawn areas.[77]

65. Kippax Task Force places a premium upon retaining the existing land 'that is set aside for community use'[78]— 'we… would like to see a free-standing library with community rooms and possible community facilities'.[79] The Task Force states that 'the best location for… a multi-purpose community facility…[is on] Blocks 15, 16 and 53'.[80]

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[72] Submission dated 6/2/01
[73] Transcript of the public hearing on 9/2/01 (Mr Wright and Mr Watson, respectively)
[74] Submission dated 27/9/00 (Mr Wright)
[75] Submission dated 23/10/00
[76] Transcript of the public hearing on 9/2/01 (Mr Watson)
[77] Submission dated 23/10/00
[78] Transcript of the public hearing on 9/2/01 (Mr Watson)
[79] Transcript of the public hearing on 17/11/00 (Mr Watson)
[80] Submission dated 23/10/00

66. **Kippax Uniting Church** called for 'further community facilities being involved as part of the impact of a [DV]'.[81] The Uniting Church stated that there:

> is a distinct lack of community facilities in the Kippax Group Centre and the Kippax precinct and the surrounding areas… The western suburbs of Belconnen have some of the lowest levels of income, some of the highest levels of unemployment and some of the highest levels of single parent facilities in all of Canberra… There will be… an increased need for strong community support and facilities… The development needs to bear in mind the needs of the community for space, for gathering space, for young people and for something that provides for their needs… We are concerned that the community facility in the library be retained and enhanced.[82]

67. **Liangis Investments P/L** supported DV163:

> We understand that it was always PALM's intention to run DV163 separately but in parallel with DV158, particularly since the proposal underlying DV163 was being discussed with and presented to PALM well before a decision to vary the Territory Plan for all Group Centres was conceived.
>
> [DV163 is] entirely consistent with the planning process and would achieve the following objectives: an upgrade of the library, open space and new entrance for the health centre; viable upgrade of the Fitness Centre; creation of a second supermarket for Kippax Group Centre; [and] a general upgrade of the Group Centre with more retail choice outside the existing mall…
>
> [If Blocks 50 and 50 are excluded from DV163, then the effect would be] an adverse impact on the future viability of Kippax Group Centre; reduced prospect for a second competitive supermarket for Kippax; extension of the existing enclosed mall if Kippax Fair was successful at the auction; the strong prospect for a greater concentration of retail ownership in one parcel; lost opportunities for upgrading the health centre and creation of new community open space….; and lack of encouragement for developers and investors to put forward well-substantiated development proposals in Canberra, and especially for existing lessees.
>
> In our considered view, the best planning outcome for Kippax would be to retain the current vacant space (Blocks 15, 16, 52 and 53) for community uses including open space and to permit new retail space and upgraded fitness centre on Blocks 50 and 51… Only a solution that retains community space between Kippax Fair and Blocks 50/51 will give Kippax Group Centre the mix of extra retail and community space that was predicated in the Kippax Master Plan of 1998…
>
> The underlying rationale for seeking approval to redevelop the Liangis site was to provide a financial support for the substantial upgrade of the Fitness Centre which is now over 20 years old. Without additional development rights on the site there is no economic justification for redevelopment of the Fitness Centre… One serious option facing the Centre is a cessation of current trading…
>
> It is our understanding from PALM's November [2000] plan for Kippax that residential development of up to eight storeys could be permitted on the site. We also understand that this is consistent with the provisions being contained in other Group Centre Master Plans (eg Jamison) and that it is consistent with general government and Opposition policy for increased residential development in Group and Local Centres.

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[81] Submission dated 22/10/00
[82] Transcript of the public hearing on 24/11/00 (Rev Ramsay and Mr Ridge)

> The Liangis Investment DA currently lodged with PALM (October 2000) does not contain residential uses although it is proposed to vary the lease purpose clause to permit such use of the combined site…
>
> Kippax is the logical choice as the main Group Centre for West Belconnen, ahead of Charnwood, because of its existing infrastructure and scope for expansion…[83]
>
> The Kippax Corner will only add another 3,500m^2 of retail space to Kippax Group Centre… [but] in the final analysis, the actual amount of new retail space will also be controlled by the lease purpose clause…[84]

68. In relation to the Kippax Library, Liangis Investments P/L offered:

> [to] construct a new building… [of] 350m^2 gross floor area… at the rear of the current structure… [or to make the] acquisition of the current library site… in return for construction of a new 350m^2 space to library specifications… [or to] purchase the current library site at commercial rates and construct a 350m^2 space on the exiting site integrated with the new fitness centre/supermarket complex.[85]

69. **Master Builders Association of the ACT** [MBA] stated its support for DV163 and expressed frustration at PALM's delay in assessing projects:

> In the case of Kippax, we understand that PALM formally responded to a proposal from Liangis Investments about six months after a formal application for redevelopment of the site was lodged. It then took another three months before a draft Plan Variation was notified… [and it is now before the committee]. This timeframe for a major development that will benefit the local community is excessively long and creates uncertainty as well as added costs to the business community…
>
> Canberra needs a steady flow of new commercial as well as residential development to support the construction industry and to maintain the financial and employment benefits that our industry contributes to the local economy. A decision to support DV163 for Kippax would represent a substantial investment in West Belconnen that would be a welcome boost to the industry in this location.[86]

70. **Mr Notaras** stated that:

> I think in Kippax the question really is how best to provide for the 3,500m^2 supermarket, which is really the only additional retail required in Kippax… In my opinion there is no demand whatsoever for additional speciality retail space...
>
> The BIS-Shrapnel report of July 1999, which was adopted by the government… highlight[s] that the expansion in Group Centres should be directed towards maintaining and strengthening existing retail cores rather than creating new retail precincts within the one Group Centre… I believe that these fundamental elements have not been appropriately addressed by PALM in its approach to the Kippax plan…
>
> There are vacancies and the [Kippax] centre has not been fully leased for some years. Currently there are significant arrears of rent by individual tenants… and the turnover of tenants has not been at an acceptable level…

[83] Submission dated 7/2/01
[84] Correspondence dated 26/11/00
[85] Supplementary correspondence dated 21/1/01
[86] Submission dated 2/2/01

> I believe the planning for Kippax should focus on consolidation of the retail core… [on the] three Blocks [15, 16 and 53]… A public auction of this land will deliver the best financial return for the community, as well as the government being seen to deal transparently with contiguous land…
>
> The concept of a stand-alone supermarket incorporating a fitness centre and divorced from the main retail core is difficult to accept as a legitimate planning option for the long term viability of the Kippax Group Centre.[87]

71. **Mr Pocius** opposed DV163, stating that, while 'a second large supermarket should be allowed to be developed' at Kippax:

> the best location for such retail expansion… [is] on the vacant land immediately adjacent to Kippax Fair (Blocks 15, 16 and 53). It would be ridiculous to leave this land vacant in favour of another site further away from existing shops and other facilities at Kippax… The best outcome would be for the new supermarket to be linked to Kippax Fair to provide more convenient and comfortable shopping under the one roof. [And I] believe that the developer of the new retail facilities should also provide new community facilities, in particular a new public library. [I] do not support any change to retail for the Kippax Pool and Fitness centre, and the vacant town house site behind it… These sites should be used for their current purposes. There is a need at Kippax for town house development for aged people close to shops and medical facilities.[88]

72. **Mr Rattigan** submitted that:

> future commercial development in the [Kippax Group] Centre [should] be made conditional upon significant upgrading of community facilities… [The government should not] simply… parcel out land to commercial interests and allow "market forces" (that is short-term profit motives) [to] determine the outcome…[89]
>
> It seems to me that land is the most valuable physical asset that the community owns and it ought to be released on the basis of the needs of the people in the community as citizens, not merely as consumers for retailers… I believe the interim library is well overdue to be turned into a permanent library…
>
> I can see the need for a second supermarket in Kippax… [and would prefer] that the two supermarkets should be under the one roof.[90]

73. **Ms Ward** submitted that development proposals at Kippax should ensure that existing trees are properly protected.[91]

74. **West Belconnen LAPAC** expressed doubt about 'the need for additional retail space at all'.[92] Further, the LAPAC stated that it:

> fully supports the upgrading of the Fitness Centre, but we do not support it via the proposed development of a second supermarket… If the outcome was for a second supermarket in Kippax, it is the position of West Belconnen LAPAC that extension immediately to the west of Kippax Fair would be the best outcome for the community.[93]

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[87] Transcript of the public hearing on 24/11/00
[88] Submission to PALM (referred to this committee) dated 26/1/01
[89] Submission dated 21//10/00
[90] Transcript of the public hearing on 24/11/00
[91] Submission dated 1/2/01
[92] Transcript of the public hearing on 24/11/00 (Mr Riley)
[93] Ibid

75. The LAPAC stated that there is a need for 'a master plan which… has the community's endorsement'.[94]

76. **Woolworths** submitted that DV158 and DV163:

> are highly inter-related and need to be dealt with jointly, not separately… DV158 proposes a number of new approaches and processes in respect of Group Centres, and it is untenable that the committee is expected to examine specific proposals for Kippax before it is given the opportunity to investigate and report on the general changes being proposed for all Group Centres.[95]

77. Woolworths opposed DV163, in part because it:

> is in conflict with the current Territory Plan objective for the retail core, which is to create an attractive pedestrian environment by providing for shops and similar activities to be located in a consolidated core. Extending the retail core to include the Pool and Fitness Centre raises doubts as to whether it could still be regarded as "consolidated", and also whether the "attractive pedestrian environment" which exists in the core can be successfully extended as far as this site.[96]

78. Woolworths also opposed DV163 because:

> Block 51 accommodates Kippax Pool and Fitness Centre, which we understand will be reduced in size as a result of new development. The Pool and Fitness Centre was originally developed to meet a demonstrated need from the West Belconnen community for indoor recreation facilities. This need still exists, but will be partly displaced as result of the proposed development, forcing the community into long and unsustainable journeys to alternative locations for the displaced facilities.
>
> Block 50 was sold through a direct sale process some years ago, specifically for housing development. The site has not been developed and would appear to be seriously in breach of the provision of the lease…
>
> It is understood that the new supermarket will require the construction of a new road from Southern Cross Drive. This road may be to the detriment of small businesses on the western side of Kippax which rely on current address and access arrangements for exposure and visibility.
>
> A new supermarket on this site will be at distance from existing core retail and business activity and will have the effect of watering down the vibrancy and convenience of the core area…
>
> The relative remoteness of this supermarket site will force those who want to shop at Kippax Fair and <u>the</u> new facility into a lengthy, unprotected walk or will require them to move their car, generating undesirable additional traffic…
>
> The new site is also a considerable walk from the nearest bus stop…
>
> The Territory Plan… states that "proposals which may have the effect of depleting community or recreation facilities may require a Mandatory Preliminary Assessment" (PA). A PA requires the proponent to undertake a detailed assessment of the environmental, economic, social and physical impacts of the proposed development and to release the findings for public scrutiny and

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[94] Ibid
[95] Submission dated 23/10/00
[96] Ibid

> comment. The committee may come to the view that a PA should be an important pre-requisite to any consideration of the DV.[97]

79. Woolworths submitted that a 'more acceptable proposal' is to build a second supermarket 'as part of Kippax Fair' because:

> the location of a major magnet at each end of the centre ensures that the maximum number of people are drawn past the small shops, assisting their viability. Two major supermarkets within the same centre will lead to a wider range of products and more competitive pricing. The small shops and businesses in and adjacent to Kippax Fair will benefit from the larger number of customers drawn in by two major supermarkets, all in close proximity to each other…[98]

> [Retail expansion at Kippax Group Centre] only needs to be extended to incorporate Block 53… [This] is ample vacant land… to accommodate the additional 4,500 m^2 of space.[99]

[97] Ibid
[98] Ibid
[99] Transcript of the public hearing on 24/11/01 (Mr Smith)

V. CONCLUSION

80. The committee has not been asked before by the Minister or PALM to consider two DVs for the one portion of land (that at Kippax Group Centre), each proposing a different landuse.

81. From a study of the papers and records held by PALM in relation to DVs 158 and 163 (which the committee requested on 1/12/00), a majority of the committee concludes that the decision to proceed with a separate DV for the Kippax Group Centre was politically driven and against the advice of PALM officers. The advice of the latter was to treat the Kippax issues within the broader context of the DV dealing with *all* Group Centres (DV158). The Minister's decision to proceed with two DVs—one general and one specific to a Group Centre—was inappropriate. In reaching this conclusion, a majority of the committee specifically draw attention to the brief prepared for the Minister entitled *Group Centres Policy Review and Kippax* (dated 6/9/99).

82. In making the above comments, the committee in no way wishes to reflect on the performance of PALM officers. What the whole matter appears to demonstrate is the need for parliamentary committees—especially when dealing with planning issues—to be constantly alert to the context in which government decisions are made. There may well be a number of instances where this committee repeats its call for all departmental papers and records bearing on a government decision to be made available.

83. Certainly from the committee's point of view, the existence of two DVs has complicated the committee's consideration of the issues raised by the DVs.

84. A further complication arose from the very broad use of the master planning process proposed by PALM for Group Centres. It will be seen from the committee's recommendations (below) that the committee has suggested qualifications to the use of the master planning process affecting Group Centres.

85. Another complication that arose during the inquiry related to the parliament's standing orders, specifically, Standing Order 246 which reads:

> Witnesses before a committee may not be represented by counsel or advisers unless ordered by the Assembly, but a witness may consult with counsel or advisers while giving evidence.

86. In order to overcome possible difficulties relating to the appearance of some witnesses in relation to this Standing Order, the committee sought—and obtained—the Assembly's approval to the following motion:

> That this Assembly orders that, during the remaining terms of the Fourth Assembly, witnesses appearing before the Standing Committee on Planning and Urban Services, in relation to inquiries concerning variations to the Territory Plan, may be represented by counsel or advisers.[100]

87. **In relation to DV158**, the committee acknowledges that it is well intentioned—but the committee can see considerable difficulties in its operation and these must be addressed before it is implemented on a permanent basis.

[100] Legislative Assembly for the ACT, *Minutes of Proceedings* 3/5/01

88. The committee recommends that DV158 be amended in the following ways.

Recommendation 1—that DV158 be amended to provide detailed justification for each proposed expansion of Precinct ‘a’ land (the retail core). For example, the committee considers that there is insufficient evidence to justify the proposed retail expansion at Charnwood (especially in light of DV163).

Recommendation 2—that DV158 be amended to stipulate that a thorough analysis of carparking demand in a particular Group Centre must be undertaken prior to any expansion of retail activity into the existing Precinct ‘d’ area (public carparking) of that Group Centre.

Recommendation 3—that DV158 be amended to fully outline the master planning process and in particular:

- that it stipulate that PALM is to be responsible for Group Centre Master Plans (individual proponents should *not* be involved in the preparation of these Plans though of course PALM should consult the proponents)

- that it incorporate the assessment criteria and performance controls to be used by PALM in preparing and assessing Group Centre Master Plans

- that PALM identify the likely impact of a change to a Group Centre Master Plan *on Local Centres in the area*

- that PALM be required to demonstrate that it has taken into account the need for *community* facilities as much as the need for retail/residential or other uses

- that PALM be required to allow sufficient time for community comment on Centre Master Plans and that PALM be required to formally respond to the public comment it receives (as happens at present with draft variations to the Territory Plan). This formal response should be included in the papers forwarded by PALM to the Minister at the time PALM makes a recommendation on a Group Centre Master Plan

- that PALM ensure that its public consultation extends beyond the immediate Group Centre (eg a business centre such as the Belconnen Markets should be consulted about the Jamison Group Centre Master Plan).

Recommendation 4—that DV158, once it is amended in line with these recommendations, then be resubmitted to this committee for its consideration.

Recommendation 5—that, in the event that a Group Centre Master Plan makes provision for high rise buildings (greater than two storeys or whatever is the existing height in a Group Centre, whichever is the greater), the Master Plan *must be treated as a draft Variation to the Territory Plan and so come before an appropriate committee of the Legislative Assembly.*

Recommendation 6—that DV158 stipulate that a balance must be maintained between residential and commercial land uses in the group Centres. In making this recommendation, the committee indicates that it supports a greater level of residential land use in the Group Centres but it is imperative that an appropriate balance is maintained.

Recommendation 7—that PALM inform members of the ACT Assembly, and the relevant planning committee of the Assembly, at the time it initiates and/or prepares a Group Centre Master Plan; and when it is considering changing a Group Centre Master Plan.

89. **In relation to DV163**, the committee considers that the need to enlarge the Precinct ‘a’ area of Kippax Group Centre, at the present time and to the extent envisaged by DV163, *has not been proved*—though there appears to a general expectation *that some limited increase in retail space is justified.*

90. Members of the committee are keenly aware that many shopping centres in Canberra have been experiencing difficulties over the past decade. In Belconnen’s case, the local centres of Macquarie, Latham, Macgregor, Higgins and Florey have all found it difficult or impossible to maintain a viable shopping presence. In large part this is a consequence of changed consumer shopping patterns which are increasingly putting the viability of local centres under threat.

91. Further, members of the committee are aware of vacancies even in a Group Centre like Kippax, with the vacancies being not just within the retail mall (Kippax Fair) but in the surrounding retail area of Kippax as well.

92. In addition, the committee is aware that, in recent years, the Kippax Health Centre has not been fully occupied and there will shortly be a need to spend funds on maintaining the Health Centre. Also, the committee is conscious of the desirability of integrating the Health Centre, if at all possible, into a larger and more comprehensive Community Facility incorporating a new and permanent library, meeting rooms, display areas and other services (including for the aged and youth of the West Belconnen area).

93. Taking all these factors into account, the committee considers that the following changes to DV163 can be incorporated into an amended DV158 *to make just one final Variation for all Group Centres (Kippax included).*

<u>Recommendation 8</u>—that land in the Kippax Group Centre be set aside for a permanent Kippax Community Centre comprising (and integrating) a new and permanent library, meeting rooms, a health centre, display areas, provision for Senior Citizens and for youth, and possibly an ACT Shopfront. The integrated centre should facilitate community access. Also, the integrated facility might usefully incorporate space to be used by local members, and by Ministers, when seeing constituents.

<u>Recommendation 9</u>—that the existing health facility on Block 22 should be incorporated into the new integrated Kippax Community Centre.

<u>Recommendation 10</u>—that the new Kippax Community Centre be located at a convenient location on one or more of Blocks 15, 16, 22 or 53.

<u>Recommendation 11</u>—that provision be made for a limited expansion of Precinct ‘a’ land at the Kippax Group Centre, which expansion must not be separated from the existing retail core. In this regard, the committee notes that, if the existing Health Facility on Block 22 is relocated, then this land may be able to used for an expanded retail core.

<u>Recommendation 12</u>—that planning for the Kippax Community Centre make appropriate provision to retain an area of urban open space (as currently exists on Block 53).

<u>Recommendation 13</u>—that Blocks 50, 51 and 52 retain their existing classification as Precinct ‘b’. In relation to the existing lease requirement for a leisure centre on Block 51, the committee values this usage highly and believes it should continue.

<u>Recommendation 14</u>—that there should be no direct road access to Kippax Group Centre from Southern Cross Drive

94. **In relation to all draft Variations to the Territory Plan**, the committee considers that *all* submitters to PALM during the public consultation phase deserve to be informed about the next stage of the Variation process, and specifically about whether it has been changed (or left unchanged) as a result of public comment. The submitters should also be told how to access or obtain the DV forwarded to the Minister, including the Consultation Report prepared by PALM which identifies the issues raised by the public. This measure should minimise the number of occasions when members of the public, addressing this committee, are unaware that the original DV was changed by PALM in light of the public comment it received.

Recommendation 15—that PALM improve its notification process for draft Variations by informing submitters about whether the draft Variation has been amended in light of comments by the public, and informing them when the draft Variation has been forwarded to the Minister. Also, the submitters should be told how to access or obtain the Consultation Report prepared by PALM which identifies the issues raised by the public.

95. **In relation to the representation of organisations before committees of the Assembly**, the committee draws attention to the need to ensure that the Assembly's procedures do not place unnecessary difficulties in the way of parliamentary committees taking verbal evidence from those organisations (including private companies) whose position on an issue being examined is of interest to those committees. This committee has taken action to facilitate the appearance of witnesses in these circumstances.

VI. APPRECIATION

The committee thanks all those who participated in the inquiries into DV158 and DV163.

Harold Hird MLA
Chair

6 June 2001